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OFFICE OF PETITIONS

In re Application of
Hans Fiesel
Application No. 09/325,930
Filed: June 4, 1999
Attorney Docket No. C-DIT-1806 Fiesel

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," filed December 6, 2004. The Office of Petitions was recently forwarded the present petition for a decision on the merits. The Office immediately reviewed and decided the petition upon its receipt. The Office sincerely apologizes for any inconvenience.

This application was held abandoned for failure to respond timely to the final Office action mailed on November 18, 2003, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on February 19, 2004. A Notice of Abandonment was mailed on July 14, 2004.

The practitioner for petitioner asserted that the attorney of record filed a Change of Correspondence Address with the USPTO on September 24, 2001, requesting that the Office change the correspondence address for the above-identified application to Customer Number 28581. The practitioner averred that the law firm did not receive the final Office action or the Notice of Abandonment because they were mailed to the former address. Accordingly, petitioner requested that the Office withdraw the holding of abandonment based on non-receipt of the Office action.

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the Change of Correspondence Address (PTO/SB/122), signed by an attorney of record. Additionally, the practitioner provided the Office with a copy of a returned, date-stamped postcard receipt,¹ acknowledging receipt of the Change of Correspondence Address in the USPTO on September 26, 2001.

¹ Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

Unfortunately, the Office did not change the correspondence address as requested. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2614 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office Action. The three (3) month shortened statutory time period for responding to the final Office Action will be set to run from the mailing date of the new final Office Action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

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